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12 || *Co-Lead Counsel for Plaintiff Class*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

18 IN RE: HIGH-TECH EMPLOYEE  
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

## All Actions

**Master Docket No. 11-CV-2509-LHK**

**PLAINTIFFS' ADMINISTRATIVE  
MOTION PURSUANT TO LOCAL RULE  
79-5 TO FILE UNDER SEAL PORTIONS  
OF PLAINTIFFS' MOTION TO EXCLUDE  
EXPERT TESTIMONY PROFFERED BY  
DEFENDANTS AND DECLARATION OF  
LISA J. CISNEROS IN SUPPORT  
THEREOF**

Judge: Honorable Lucy H. Koh

1 Pursuant to Civil Local Rule 7-11 and 79-5(c) and (d), Plaintiffs respectfully request an  
 2 order from the Court authorizing the filing under seal of (1) the entirety of all exhibits to the  
 3 Declaration of Lisa J. Cisneros In Support of Plaintiffs' Motion To Exclude Expert Testimony  
 4 Proffered By Defendants And Memorandum of Law In Support Thereof, as well as (2) portions  
 5 of Plaintiffs' Motion To Exclude Expert Testimony Proffered By Defendants And Memorandum  
 6 of Law In Support Thereof ("Plaintiffs' Motion") that cite to such exhibits. The portions of  
 7 Plaintiffs' Motion that Plaintiffs seek to seal are identified in the redacted version of the  
 8 Plaintiffs' Motion, which is attached as Exhibit A to the Declaration of Lisa J. Cisneros In  
 9 Support of Plaintiffs' Motion to Seal ("Cisneros Declaration"). The unredacted version of the  
 10 Motion is attached as Exhibit B to the Cisneros Declaration, and contains yellow highlighting to  
 11 indicate where redactions are proposed.

12 Plaintiffs request that the above noted documents be filed under seal because they are or  
 13 refer to documents or information that Defendants have designated "CONFIDENTIAL" or  
 14 "CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Stipulated Protective Order  
 15 (Modified by the Court) (Dkt. No. 107). None of the information at issue was designated as  
 16 confidential by Plaintiffs. Plaintiffs take no position on whether the designated documents satisfy  
 17 the requirements for sealing, and specifically reserve the right to challenge any  
 18 "CONFIDENTIAL" or "CONFIDENTIAL – ATTORNEYS' EYES ONLY" designation under  
 19 the Stipulated Protective Order (Modified by the Court) (Dkt. No. 107) as well as the sealability  
 20 of these documents under Civil Local Rule 79-5.

21 Rule 26(c) of the Federal Rules of Civil Procedure provides broad discretion for a trial court  
 22 to permit sealing of court documents for, *inter alia*, the protection of "a trade secret or other  
 23 confidential research, development, or commercial information." Fed. R. Civ. P. 26(c)(1)(G). The  
 24 Ninth Circuit has "carved out an exception to the presumption of access to judicial records for a  
 25 sealed discovery document [attached] to a nondispositive motion," where the requesting party shows  
 26 good cause exists to keep the records under seal. *Navarro v. Eskanos & Adler*, No. C-06 02231, 2007  
 27 U.S. Dist. LEXIS 24864, at \*6 (N.D. Cal. March 22, 2007) (citing *Kamakana v. City & Cnty. of  
 28 Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006) ("[A] 'particularized showing' under the 'good cause'

1 standard of Rule 26(c) will ‘suffice[] to warrant preserving the secrecy of sealed discovery material  
 2 attached to nondispositive motions.”); *see also Pintos v. Pacific Creditors Assoc.*, 565 F.3d 1106,  
 3 1115 (9th Cir. 2009) (“In light of the weaker public interest in nondispositive materials, we apply the  
 4 ‘good cause’ standard when parties wish to keep them under seal.”).

5 Defendants must show good cause for sealing the documents they have placed a  
 6 confidentiality designation upon by submitting a declaration and proposed order within seven  
 7 days after the lodging of the designated documents. *See Civil Local Rule 79-5(d).*

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 9 Dated: January 9, 2013

Respectfully Submitted,

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By: /s/ Lisa J. Cisneros

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Lisa J. Cisneros

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